

Business Structures & Liability Insurance A Quick Reference Guide for Producers

Freedmen Heirs Foundation supports small and mid-sized producers by expanding their market access, providing technical assistance, and strengthening their financial resilience to enhance their operations. Through this series, our goal is to offer practical tools producers can apply immediately and share with their community.

Overview

To protect your operation, it's vital to understand business structures and liability insurance. Forming an LLC shields personal assets from business claims but doesn't protect farm assets from liabilities. Producers must have adequate farm liability and product liability coverage to safeguard business assets. This guide helps you understand legal defaults, ensure personal asset protection, close insurance gaps, and align both aspects of your legal shield for long-term resilience.



PROTECTION OPPORTUNITY #1 BUSINESS STRUCTURE

Protects your **PERSONAL ASSETS** (home, personal savings, family car) from farm liabilities.

1. BEWARE OF THE "AUTOMATIC" DEFAULTS



Sole Proprietorship (1 owner) or Partnership (2+ owners) is your automatic legal status the moment you sell a farm product.



The Partnership Multiplier: In a partnership, you are personally liable for the business actions and agreements of your partner—even if you had no knowledge of them.



The Catch: There is *no separation* between you and your farm business. If your farm incurs debt or gets sued, your personal assets are available to satisfy those claims.

2. THE LLC SOLUTION

Forming a **Limited Liability Company (LLC)** establishes a separate legal "person". If the farm LLC is liable, only the LLC's business assets can be used to satisfy the liability; your personal assets remain safe.

LLC's are:



Flexible



Simple to Manage

and do not require



Formal officers



Governance documents

3. ACTIVELY "EARNING" YOUR PERSONAL PROTECTION

Personal asset protection is not automatic just because you registered an LLC. You must actively earn it.



File Articles of Organization

Register with your Secretary of State and pay the state fee.



Secure an EIN

Get a free Employer Identification Number from the IRS to act as your farm's tax ID.



Open a Dedicated Bank Account

Keep your business and personal money separate.



Avoid Commingling

Avoid mixing personal and business funds. Maintain accurate books and a balance sheet for tax purposes.

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PROTECTION OPPORTUNITY #2

LIABILITY INSURANCE

Protects your **BUSINESS ASSETS** (land, tractors, greenhouses, crop inventory, etc.) from farm liabilities.

★ The Golden Truth

Does a business structure protect your business assets from business liabilities?

NO.

1. UNDERSTANDING NEGLIGENCE

You are legally liable for an injury if you are found **negligent**, primarily.



The Rule: You are negligent if you acted *less reasonably* than an ordinary farmer would have acted under similar circumstances.

2. VIEWING INSURANCE AS A RETAINER

Insurance is a binding contract, not a charity.

The Retainer Metaphor: In exchange for premium payments, your liability policy functions like a **retainer on an expert defense attorney**. If you are sued (even if the lawsuit is completely meritless), the insurance company hires and pays for your legal defense team, in most circumstances.

3. THE TWO CORE COVERAGES YOU NEED

Standard Farm Liability: Covers slip-and-falls or physical injuries on your farm property (e.g., a visitor slips on wet grass during a pasture walk, among other things).

Product Liability: Covers consumer illness or harm resulting from consuming your crops, value-added products, or food items, in most cases.

PLEASE NOTE:

State laws differ nationwide. Producers should use this checklist as a baseline and consult local attorneys and insurance professionals to ensure legal compliance and customize protection for your operations.

4. BEWARE OF THE GAP

Standard farm policies are designed for traditional farming operations. They often **exclude** modern, diverse revenue streams such as:

- Agritourism & Farm Tours
- CSA Programs
- Farmers' Market Sales
- On-Farm Poultry/Meat Processing
- Value-Added Production (ie., jams, baked goods)

CHECK YOUR ALIGNMENT

How to ensure both sides of your shield work in harmony.



Create an LLC

File paperwork with the secretary of state's office, and keep up your annual reporting obligations.



Create a Detailed Farm Activity Inventory

Write down every activity your farm conducts, from hosting farm tours to selling at regional markets.



Cross-Reference with Your Insurance Agent

Show this inventory to your agent. Ask explicitly: "Is [Activity X] covered under our current policy?"



Keep Separate Books

Establish clean, separate business bank accounts and maintain accurate balance sheets.



Draft a Governance Document

Most farms fail due to the "Four Ds" (*Death, Disagreement, Debt, Disability*). Write an operating or governance agreement to manage these human risks before they happen.